

**Standards Committee
25 JANUARY 2021**

**Council
4 MARCH 2021**

**Annual Report Of The Council's
Monitoring Officer – 2020**

A. Introduction

1. The principal purpose of my Annual Report is to assess activity in probity and related governance matters, in particular in relation to formal complaints about alleged breaches of protocols and codes of conduct by borough and parish councillors. The report also provides an opportunity to review the effectiveness of current procedures. This report deals with the calendar year 2020 in relation to these matters.
2. The Council's current code of conduct for councillors was adopted on 20 July 2012 and has since been the subject of a number of amendments. This code is based on Localism Act principles and was developed as a collaborative project by Kent Monitoring Officers in consultation with task groups of councillors within individual councils. The vast majority of district and parish councils in Kent have adopted this "Kent Model Code of Conduct".
3. When it adopted the Code of Conduct in 2012, the Council also adopted new procedural "Arrangements" for handling code of conduct complaints. Again this was developed on a Kent-wide basis with the objective of simplifying procedures and removing unnecessary bureaucracy which had beset the previous standards regime.
4. The Council has also adopted a "Good Practice Protocol for Councillors Dealing with Planning Matters". This sets out detailed best practice rules for this specialist and sensitive area of the Council's work which go beyond the general rules set out in the code of conduct. The Protocol was substantially revised and updated in October 2015 to reflect changes in the law and government guidance. The first formal complaint of breach of the Protocol was dealt with in 2017.
5. My Annual Report also includes data on Ombudsman complaints as these are also handled by or on behalf of the Monitoring Officer. The Standards Committee monitors any issues of probity raised in Ombudsman investigations. In terms of Ombudsman complaints the relevant period relates to the most recent data provided by the Ombudsman namely that for the period 1st April 2019 to 31 March 2020.

B. Code of Conduct Complaints 2020

6. Formal complaint activity in Ashford has been relatively low since adoption of the new code of conduct in 2012. For example, during 2016 no new formal complaints were submitted, whilst in previous years the few complaints made,

mainly at Parish Council level, had been resolved informally. No complaints had been taken to formal investigation and hearing up to the end of 2016. However the period since 2017 has been more challenging. In my last annual report, I reported on a series of complex formal complaints which had recently been concluded. Since early 2020, various national and local “lockdowns” have been in place with most staff working remotely and councillor meetings taking place “virtually”. However this has not resulted in a reduction of formal or informal complaint activity. On the contrary the volume of informal complaint activity and requests for advice has grown significantly at parish council level. Some of this has resulted from new “virtual” meeting procedures and considerable support has had to be provided to some local councils. Several formal complaints have been made in 2020 although a number have fallen away due to a failure to provide information or the fact that the complaint failed to meet legal or local assessment criteria eg. related to private conduct.

7. The formal complaints received and registered in 2020 are set out in Table 1 below

Table 1
Formal Code of Conduct Complaints Made

Council Ref	Allegations	Decision(s)	Comments
ABC 20/007 PR304/200 TENTERDEN	Bullying/Intimidating Conduct	Under consideration	Further information awaited
ABC 20/010 PR304/203 TENTERDEN	As above	As above	As above
ABC 20/009 PR304/202	Confer advantage/disadvantage Disrepute	Under consideration	Further information awaited
ABC 20/008 PR304/201 PARISH	Misuse of resources Disrepute	Under consideration	Further information awaited

NB. In my last annual report, there was a reference to a Bilsington complaint allegation of disclosure of confidential information/bullying. The reference to bullying was incorrect

C. Other Relevant Governance Developments in 2020

8. The new Social Media Guidance Note for Councillors was adopted in May 2019. In addition a revised Councillor/Officer Working Relationship protocol was adopted clarifying standards of expected behaviours. Some training in relation to these protocols was provided following the elections in 2019 and I am pleased to say that noticeably fewer complaints (formal and informal) have related to social media usage.

9. In my last annual report I included an update on the review work of the national Committee on Standards in Public Life (CSPL). The CSPL had made 15 “Best Practice” Recommendations in relation to the local government ethical standards system, some of which required legislation to implement. An update has been provided to the CSPL by all local authorities.
10. One of the CSPL’s formal recommendations in 2019 was that the Local Government Association should prepare an optional new Model Code of Conduct for Councillors in order to encourage greater consistency and higher standards. Following extensive consultation the LGA published a new Model Code of Conduct a few days before Christmas. This will now be given detailed consideration by the Kent Monitoring Officers Group in the near future and a further report to this Committee will be presented when that work is complete.
11. Following a review of the LGA’s most recent “Probity in Planning” Guidance, the membership of the Council’s Planning Committee was changed to reflect some recommended practice in that Guidance

D. Ombudsman Complaints 2019/20

12. Since April 2013, complaints about social housing have been dealt with by the Housing Ombudsman (HO) and not the Local Government Ombudsman (LGO).
13. For Members’ information the analysis of the complaints resolved by the LGO in 2019/20 are attached (Appendix A). The LGO’s Annual Letter and Report are also included in Appendix A.
14. The number of complaints received by the Ombudsman in 2019/20 (17) was slightly lower than in 2018/2019 (19) but, the number of complaints upheld was three, as opposed to one in the previous year. Details are provided in the Table below.
15. A new column has been added to the Table of Ombudsman Complaints giving information on action taken/lessons learned where relevant. This is consistent with the approach advocated in the last Ombudsman’s annual review letter.

E. Recommendations

1. That the Annual Report of the Monitoring Officer for 2020 be received and noted.
2. That the Monitoring Officer report to future meeting(s) of the Standards Committee in relation to the new LGA Model Code of Conduct.

T W MORTIMER
Director of Law and Governance & Monitoring Officer
January 2021

Appendix A – Analysis of Ombudsman Complaints

The Ombudsman investigates complaints about Council services to remedy personal injustice caused by maladministration (“fault”) or service failure.

Between 1st April 2019 and 31st March 2020 the Local Government Ombudsman (LGO) received 17 complaints, with decisions on 16 of those as follows:

<u>Not investigated by the LGO</u>	
Incomplete or invalid complaint	1
Advice Given by LGO	1
Referred back for local resolution	<u>4</u>
	6
Closed after initial enquiries	7
Not upheld	0
Investigated by the LGO and Upheld	<u>3</u>
	10
<u>TOTAL</u>	<u>16</u>

Attached is a table providing further details on the 10 complaints about which the LGO contacted the Council, and outcome of these complaints. Only 3 complaints were fully investigated by the LGO and these were Upheld. Actions taken by the Council and lessons learned as a result are also included in the attached table.

I have also attached the Ombudsman’s Annual Review letter 2019/20.

When the LGO has issued a report on a completed investigation, these are generally published in the Complaints Outcomes section of the LGO website www.lgo.org.uk. The published information does not name the complainant or any individual involved with the complaint.

Local Government Ombudsman Decisions 1st April 2019 – 31st March 2020

Reference	ABC Dept	Complaint details	LGO Decision	LGO comments	Action taken by the Council/lessons learned
18 011 675	Housing	Complained about the Council's handling of her request for housing help when she and her son were made homeless.	Upheld	Evidence of fault, particularly the Council did not comply with the Relief Duty it owed the complainant.	<ul style="list-style-type: none"> • Apology to complainant. • Payment of £400 in compensation for uncertainty and distress suffered. • Action plan implemented following training sessions with the staff dedicated to casework management, administrative processes, and embedding more rigour in the qualitative element of cases. Also to impart better awareness of the LGO's role.
19 002 836	Revenues & Benefits	Complained that the Council was pursuing him for unpaid business rates for which he considered he was not liable.	Closed after initial enquiries	LGO decided not to investigate as complainant's liability had been established at court.	N/A

18 016 200	Planning & Dev't	Complained about the Council's handling of his planning application and its enforcement action relating to conversion of his front garden to form a driveway.	Upheld	Evidence of fault and remedy completed late.	<ul style="list-style-type: none"> • Payment of £150 in recognition of the injustice cause to the complainant. • This complaint was made at a time when the Council employed several case officers who were contracted consultants because of the difficulties recruiting permanent staff. The standard of service at times therefore sadly fell short of what the Council aspires to provide. Given that the Council now has an almost have a fully resourced team, it is very unlikely for this to happen again. Notwithstanding this, the Council is working with the PAS to provide internal training to look at ways of improving service delivery, which will
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					include better communication with the customer.
19 001 187	Planning & Devt	Complained that the Council took planning enforcement action against him for a garage door he fitted.	Closed after initial enquiries	Closed after initial enquiries – out of jurisdiction.	N/A
19 004 114	Environmental Health	Complained about the way the Council had dealt with complainant's concerns about dog faeces in a neighbour's garden.	Closed after initial enquiries	Closed after initial enquiries – no further action.	N/A
19 007 588	Planning & Devt	Complained about the Council's delay and the following refusal of her planning application.	Closed after initial enquiries	Closed after initial enquiries – out of jurisdiction.	N/A
19 011 006	Parking	Complained about the Council's enforcement of a Traffic Regulation Order preventing vehicular access to the town centre.	Closed after initial enquiries	Closed after initial enquiries – no further action.	N/A
19 010 743	Legal & Democracy	Complained that the Council failed to divert a footpath on her land prior to her purchase of her property.	Closed after initial enquiries	Closed after initial enquiries – no further action.	N/A
19 004 416	Planning	Complained that the Council did not notify him about a planning application to develop on a site near his house.	Upheld	Evidence that the Council failed to update the complainant properly about one of his complaints	The Council agreed to remind its Planning Enforcement Officers of the need to respond to all parts of a complaint they had investigated when providing updates to members of the

				and remedy completed late.	public. A Meeting was subsequently held with Enforcement Officers, who were reminded of the importance of communicating fully with complainants.
19 018 211	Planning	Complained that the Council delayed in deciding his planning application and as a result he suffered financial loss, stress and upset.	Closed after initial enquiries	Closed after initial enquiries – out of jurisdiction.	N/A

Local Government & Social Care OMBUDSMAN

22 July 2020

By email

Mrs Kerly
Chief Executive
Ashford Borough Council

Dear Mrs Kerly

Annual Review letter 2020

I write to you with our annual summary of statistics on the decisions made by the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2020. Given the exceptional pressures under which local authorities have been working over recent months, I thought carefully about whether it was still appropriate to send you this annual update. However, now, more than ever, I believe that it is essential that the public experience of local services is at the heart of our thinking. So, I hope that this feedback, which provides unique insight into the lived experience of your Council's services, will be useful as you continue to deal with the current situation and plan for the future.

Complaint statistics

This year, we continue to place our focus on the outcomes of complaints and what can be learned from them. We want to provide you with the most insightful information we can and have made several changes over recent years to improve the data we capture and report. We focus our statistics on these three key areas:

Complaints upheld - We uphold complaints when we find some form of fault in an authority's actions, including where the authority accepted fault before we investigated. A focus on how often things go wrong, rather than simple volumes of complaints provides a clearer indicator of performance.

Compliance with recommendations - We recommend ways for authorities to put things right when faults have caused injustice. Our recommendations try to put people back in the position they were before the fault and we monitor authorities to ensure they comply with our recommendations. Failure to comply with our recommendations is rare. An authority with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

Satisfactory remedies provided by the authority - We want to encourage the early resolution of complaints and to credit authorities that have a positive and open approach to resolving complaints. We recognise cases where an authority has taken steps to put things right before the complaint came to us. The authority upheld the complaint and we agreed with how it offered to put things right.

Finally, we compare the three key annual statistics for your authority with similar types of authorities to work out an average level of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

This data will be uploaded to our interactive map, [Your council's performance](#), along with a copy of this letter on 29 July 2020, and our Review of Local Government Complaints. For further information on how to interpret our statistics, please visit our [website](#).

It is pleasing that we recorded our satisfaction with your Council's compliance in the three cases where we recommended a remedy. However, it is disappointing that in two of these cases, remedies were not completed within the agreed timescales. While I acknowledge the pressures councils are under, such delays add to the injustice already suffered by complainants. Additionally, the actions you agree to take, and your performance in implementing them, are reported publicly on our website, so are likely to generate increased public and media scrutiny in future. I invite the Council to consider how it might make improvements to reduce delays in the remedy process and to ensure it tells us promptly when it completes a remedy.

Resources to help you get it right

There are a range of resources available that can support you to place the learning from complaints, about your authority and others, at the heart of your system of corporate governance. [Your council's performance](#) launched last year and puts our data and information about councils in one place. Again, the emphasis is on learning, not numbers. You can find the decisions we have made, public reports we have issued, and the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

I would encourage you to share the tool with colleagues and elected members; the information can provide valuable insights into service areas, early warning signs of problems and is a key source of information for governance, audit, risk and scrutiny functions.

Earlier this year, we held our link officer seminars in London, Bristol, Leeds and Birmingham. Attended by 178 delegates from 143 local authorities, we focused on maximising the impact of complaints, making sure the right person is involved with complaints at the right time, and how to overcome common challenges.

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. During the year, we delivered 118 courses, training more than 1,400 people. This is 47 more courses than we

delivered last year and included more training to adult social care providers than ever before.
To find out more visit www.lgo.org.uk/training.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M King', with a stylized flourish at the end.

Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England